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REMARKS

Claims 1-17 and 21-23 are pending.

Claims 18-20 were previously canceled.

Claims 1 and 21 are amended to clarify that the tread area (13) is located in the sole (foot bed) of the sock (i.e., on the bottom; the area that is walked on). Support can be found in Figures 2, 3, 4, 5, 7, 8, and 9, which clearly illustrate the tread area being on the bottom portion of the sock. No new matter is added.

Anticipation Rejections.

Claims 1, 2, and 9-12 have been rejected as being allegedly being anticipated by Lambertz (US 6,286,151). This rejection is unwarranted.

"Anticipation" means that the subject matter of the claims on appeal was previously known and was described in a printed publication, either explicitly or inherently. *Abbott Laboratories v. Sandoz, Inc.*, 89 U.S.P.Q.2d 1161, 1166 (Fed. Cir. 2008). Anticipation is established by documentary evidence, and requires that every claim element and limitation is set forth in a single prior art reference, in the same form and order as in the claim. *Abbott Laboratories*, 89 U.S.P.Q.2d at 1166. Additionally, an anticipating reference must enable that which it is asserted to anticipate. *Seymour v. Osborne*, 78 U.S. 516, 555 (1870). To anticipate, the claimed subject matter must not only be previously known, but the knowledge must be sufficiently enabling to place the information in the possession of the public. *Elan Pharmaceuticals, Inc. v. Mayo Foundation*, 346 F.3d 1051, 1054 (Fed. Cir. 2003). None of the anticipation rejections in this case satisfy the foregoing requirements.

The present claims are directed to socks for use in athletic activities having a foot portion

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(1) and a shaft portion (2), the foot portion having a toe area (11), a heel area (12), and a tread area (13) between the toe area and the heel area. An air channel (25) extends from the shaft portion (2) to the tread area, with at least one climate channel (26) in the tread area (13), communicating with the air channel (25) for removing moisture from the tread area when the sock is worn for athletic activities.

A close examination of the Lambertz patent reveals a climate-adjusting sock which has an air channel (3) proceeding from the sole (2) of the foot up to the band (4) and which is formed of climate-adjusting net-type knit fabric (col. 2, lines 35-42). In the interior, the sock (1) is provided with a padded instep cushion or padding (5), which can be ribbed, and in the area of the shin it is provided with a padded shin cushion (6) (col. 2, lines 45-50). The area of the Achilles tendon is protected by means of padded cushions (7) (col. 2, lines 54, 55). The area of the calf is also provided with padded cushions whereby, in the example shown, rod-type paddings (8) are provided (col. 2, lines 62-64). The sock is also provided with an X-cross support band (col. 3, lines 1-3). The sole (2) of the sock (1) is equipped with additional padded cushions or paddings (10) and (11), particularly, in the area of the ball of the foot and/or in the area of the toes (col. 3, lines 6-10). Please note that paddings (10) and (11) are not channels. Additional support bands may be arranged in the area of the ankle, namely, a ring-type support band (12) above the ankle and below that, an additional support band (13). It is possible to provide another diagonal support band 14 (col. 3, lines 28-32). Please note that the bands (13) and (14) are not channels.

The Office Action asserts that the ribbed fabric of the instep area (5) of Lambertz is equivalent to the climate channel in the tread area of the present claims. This assertion goes against the common meanings of the terms "tread" and "instep". The "instep" is on the upper 不可以不遵守一年出行不為一致之所有強人不為不為不為不為不為不為其以為人等可以是一致不是被之中以及

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portion of the sock, as is clearly shown in the drawings of Lambertz, as well as in the present application, and in common usage (see e.g., definition of "instep" on page 599 of Webster's New Collegiate Dictionary, (G & C Merriam Co., Springfield, MA, 1977), attached hereto). In contrast, a "tread" area is clearly understood in common usage and the footwear field as being in the sole or foot bed of a sock or shoe. For example, the Webster's New Collegiate Dictionary (G & C Merriam Co., Springfield, MA, 1977) defines "tread" in relevant part, as the "pattern on the bottom of a sole" (see attached page 1244 thereof). Similarly, the American Heritage Dictionary (Second College Edition, Houghton Mifflin Co., Boston, MA, 1982) defines "tread" in pertinent part as "the part of a shoe cole that touches the ground" (see attached page 1290 thereof). In addition, the drawings in the present application clearly point to the bottom portion of the sock in referring to the tread area. The specification is consistent with this usage, as well. For example, the wording of last two sentences of paragraph [0027] of the present application are consistent with locating the tread area (13) in the foot bed (i.e., sole) of the sock. In order to clarify this point, independent claims 1 and 21 are amended herein to specify that the tread area is in the sole of the sock. As such, Lambertz clearly does not anticipate the present claims, since the reference clearly does not teach or suggest inclusion of any climate channels in the sole of the sock. The Office Action points to the instep area on the top of the foot portion of the sock of Lambertz for the location of the alleged climate channels. Consequently, withdrawal of this rejection is warranted.

Claims 1-8, 12-17 and 21-23 have been rejected as being allegedly being anticipated by Ogden (US 5,708,985). This rejection is unwarranted as well.

Ogden relates to a sock having a sole portion designed to enhance the frictional

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engagement with the skin of the planter surface of the foot (column 1 lines 6 to 8). The sock (10) has a sole portion (24) knitted with successive courses of yarn with a thickness defining an outer layer having an inner surface and which further includes a number of space ribs extending in a longitudinal direction between the heel and toe each formed by knitting a selected number of additional courses of yarn which extend from the inner surface of the outer layer in a direction toward the instep portion of the sock in a position to contact the planter surface of the foot (column 2 line 63 to column 3 line 5). The sock (10) comprises a leg portion (12) and a foot portion (14). The foot portion (14) has a heel (16) at one end, preferably including a heel pocket (18), and a toe (20) at the opposite end. Extending between the heel (16) and toe (20) are an instep portion (22) engageable with the upper half of the foot, and a sole portion (24) engageable with the bottom half of the foot.

The instep portion (22) and sole portion (24) have opposed sides which are joined together along their edges to form the completed foot portion (14) of the sock (10) (column 4 line 38 to 48). The sole portion (24) of sock (10) further includes a number of longitudinally spaced ribs (36) which extend substantially parallel to one another from approximately the heel (16) to the toe (20) of sock (10) (Figures 2 - 4b). Each of the ribs (36) is defined by at least one additional layer of yarn which is knitted with terry loops (38). The terry loops (38) extend from the inner surface (32) of outer layer (28) inwardly, i.e., within the interior of the sock (10) in a direction toward the instep portion (22) thereof. The yarn forming ribs (36) is preferably Cool-Max, or other suitable moisture-wicking yarns, which provide exceptional cushioning and resistance to abrasion in addition to moisture-wicking ability (column 5 line 22 to 37). The spaces between and within the ribs (36) on the sole portion (24) of the sock herein are a sufficient

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distance apart to cause the skin of the planter surface of the foot to move therein, thus increasing the frictional engagement between (column 3 lines 35 to 39). The longitudinally spaced ribs (36) are preferably formed with a terry stitch of suitable moisture-wicking fiber (column 3 lines 48 to 51). Additionally, the ribs (36) can extend continuously in a traverse direction from one side of the sole portion to the other. Further, one or more ribs (36) could be eliminated entirely, particularly in the arch area of the plantar surface of the foot (column 6 lines 53 to 57).

Comparing the sock of Ogden with the present invention it can be seen that there are no concordances. This is based on the fact that Ogden does not describe an air channel in the shaft of the sock that communicates with a climate channel in the tread area of the sock. The Office Action appears to equate the instep area (22) of Ogden with the air channels of the present claims. Applicants do not understand this assertion. The instep area (22) of the Ogden sock, or any other sock, for that matter, is on the upper surface of the sock in front of the ankle (see e.g., definition of "instep" on page 598 of Webster's New Collegiate Dictionary, attached hereto), not in the shaft of the sock where the air channel of the claims is located. Furthermore, there are no channels shown in instep area (22) of Ogden. The instep is illustrated as a regular knitted region on the upper portion of the sock (not the shaft) in the drawings, i.e., no channels are shown in the drawings or described in the specification in the instep area (22). Ogden does not describe instep portion (22) or any other portion of the sock as channeling moisture away from the tread area and into an air channel in the shaft, as in the present invention.

A prima facie case for anticipation requires that all limitations of the claims must be taught in the reference. That is not the case here. Since Ogden does not disclose air channels in the shaft of the sock in communication with climate channels in the tread area of the sock, as

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claimed, this rejection is improper and should be withdrawn.

Favorable reconsideration and allowance of the present application are solicited. In the event the forgoing is deemed to be unpersuasive, Applicants request the present amendment be entered to place the claims in better form for appeal.

Respectfully submitted,

Date: January 14, 2010

Robert J. Ross (Reg. No. 45,058



WEBSTER'S New Collegiate Dictionary

Copyright © 1977 by G. & C. Merriam Co.

Philippines Copyright 1977 by G. & C. Merriam Co.

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instituted: as a (1): an elementary principle recognized as
authoritative (2) pl: a collection of such principles and precepts;
esp: a legal compendium b: an organization for the promotion
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only instrument landing n: a landing made with little or no external visibility by means of instruments and by ground radio directive

devices instrument panel n: a panel on which instruments are mounted;

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tra-verse \tra-vers also -vers, esp for 6 & 8 also tra-or tra-\ n [ME travers fr. MF traverse, fr. traverser to cross, fr. LL iransversue, fr. L transversus, pp. of transversue — more at TRANSVERSE] 1: something that crosses or lies across 2: OB. STACLE ADVERSITY 3: a formal denial of a matter of fact alleged by the opposite party in a legal pleading 4 a: a compartment or recess formed by a partition, curtain, or screen b: agallery or loft of communication from side to side in a large building 5: a route or way across or over; as a: a zigzag course of a sating ship with contrary winds b: a curving or zigzag way up a steep grade c rave across convers as a: a zigzag course of a sating ship with contrary winds b: a curving or zigzag way up a steep grade c traversing (CROSSING 7: a protective projecting wall or bank of traversing; CROSSING 7: a protective projecting wall or bank of earth in a trench 8 a: a lateral movement (as of the saddle of a lathe carriage): also: a device for imparting such movement b: the lateral movement of a gun about a pivot or on a carriage to change direction of fire 9: a line surveyed across a plot of ground change direction of fire 9: a line surveyed across a plot of ground change direction of fire 9: a line surveyed across a plot of ground raversing a crystal> 3 a: to go or traversact tra-verse traversing a crystal> 3 a: to go or travel across or over b: to move along or through 4: to make a study of: Examine 5: to lie or extend across: CROSS CROSS <a href="CROSSING CROSS <a href="CROSSING CROS

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3tra-verse \tra-(),vors, tra-\tau'; tra-\adj: lying across: Transverse
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trav-erse rod n: a metal rod or track with a pulley mechanism for
drawing curtains
trav-er-tine \trav-or-ten, -ton\n [F travertin]: a mineral consisting of a massive usu. layered calcium carbonate (as aragonite or
calcite) formed by deposition from spring waters or esp. from hor

ing of a massive usu. layered calcium carbonate (as aragonite or calcite) formed by deposition from spring waters or esp. from hot springs.

'traves-ty 'trave-ste' n. pl. ties [obs. E. travesty, disguised, parodied, fr. F. travesti pp. of travestir to disguise, fr. It travestire, fr. tra-across (fr. L. trans.) + westire to disguise, fr. It travestire, garment — more at weak] 1: a burlesque translation or literary or artistic imitation usu. grotesquely incongruous in style, treatment, or subject matter 2: a debased, distorted, or grossly inferior imitation <a - of justice> syn see caricature
2 travesty vr. tied; typing: to make a travesty of: parody
2 travois (tra-voi, 'travoi) n. pl tra-vois also tra-voisea \viotix, coix\ (CanF travoi); 1: a primitive vehicle used by Plains Indians consisting of two trailing poles serving as shafts and bearing a platform or net for the load
1 travel 2: TROLL 2 ~ vr. to catch (fish) with a travel
2 travel n. 1: a large conical net dragged along the sea bottom in gathering fish or other marine hile 2: setting
1 traveler \travelope 1 travelope n. a person who fishes by traveling
2 traveler \travelope n. a : a fisherman who uses a trawel or mans a traveler
1 travel n. [ME, fr. OE trig, treg: akin to OE treow tree — more
at TREE! = n. come.

trawler
tray 'tra' n [ME, fr. OE trig treg: akin to OE treow tree — more
at TRE]: an open receptacle with a flat bottom and a low rim for
holding, carrying, or exhibiting articles — tray-ful\u00e4\u00fcn n
treach-er-ous \u00e4\u00e4rch(-\u00e4-rat) adi 1: characterized by or manifesting treach-er-ous \u00e4\u00e4rch(-\u00e4-rat) adi 1: characterized by or manifesting treacher; PERFIDIOUS 2 a: likely to betray trust: UN
RELIABLE <a ~ memory > b: providing insecure footing or
support <\u00e7\u00e4\u00e4nable o: marked by hidden dangers, hazards,
or perils \$yn see FAITHLESS — treach-er-ous-ly adv — treach-erous-ness n

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Fread n 1: a mark (as a footprint or the imprint of a tire) made
by or as if by treading 2 a (1): the action of treading (2)
: an act or instance of treading: STEP b: manner of stepping countries the sound of treading 3 a: the part of a sole that touches the ground; also: the pattern on the bottom of a sole b (1): the part of a wheel or tire that makes contact with a road or rail (2)
if the pattern of ridges or grooves made or cut in the face of a tire
a: the distance between the points of contact with the ground of the tread front whoels or the two rear wheels of a vehicle 5 a
: the upper horizontal part of a step b: the width of such a tread

tread less \lambda adj

'trea-die \'tred-'\\ n [ME tradel step of a stair, fr. OE, fr. tradan]: a swiveling or lever device pressed by the foot to drive a machine: a treadle - wt : to operate (as a machine) by a treadle or operate (as a machine) by a treadle tread-mill \(n = 1 \) a : a mill worked by persons treading on steps on the periphery of a wide wheel having a horizontal axis and used formerly in prison punishment b: a mill worked by an animal treading an endless belt 2: a wearisome or monotonous routine resembling continued activity on a treadmill treas abbt treasurer: treasury treasury treasury \(\text{treasure} \) a continued activity on a treadmill treasury \(\text{treasure} \) treatment of handing over, fr. inditus, pp. of trader to the hand over, betrain of handing over, fr. inditus, pp. of trader to the hand over, betrain of handing over, fr. inditus, pp. of trader to the hand over, betrain \(\text{treasure} \) the offense of attempting by overt acts to overthrow the overcomment of the state to which the offender owes allegiance or to kill or personally injure the sovereign or his family treasure \(\text{trean-bol}, \frac{2n_{2n-bol}}{2n_{2n-bol}} \) and it is the treasure of the state to which the offender owes allegiance or to kill or personally injure the sovereign or his family treasured \(\text{trean-bol}, \frac{2n_{2n-bol}}{2n_{2n-bol}} \) and it is the treasured of the same of treasured \(\text{treasure} \) treasured \(\text{treasure}

available for dispensation through measures the stock n : issued stock reacquired by a corporation and held as an asset treat vite! \(\nu \) b (ME traten. fr. OF traitier, fr. L tracture to handle. Itreat \(\nu \) tree! \(\nu \) b (ME traten. fr. OF traitier, fr. L tracture to handle. deal with. fr. tractus pp. of trahere to draw — more at DRAW! \(\nu \) deal with so a secondary of the seco

invited 2: an esp. unexpected source of joy, delight, or amuse ment treat.able \treat-a-bal\adj: capable of being treated; yielding or responsive to treatment — treat-abil-ity \treat-a-bil-a-k\n n treat-abil-a-k\n n a systematic exposition or argument in writing including a methodical discussion of the facts and principles ability \treat-a-bil-a-k\n n a systematic exposition or argument in writing including a methodical discussion of the facts and principles treat-ment \treat-a-bil-a-a-k\n n a series and \treat-a-bil

Second College Edition

American Heritage Dictionary

海鲁克克 "等好,一个都有一个女子。"

1. 成品 第二次数字

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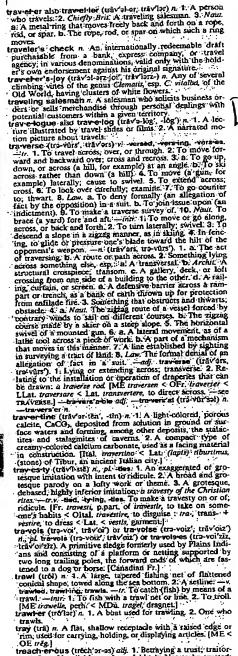
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traveler treble

traveler also travel ler (uaval-or, travelar) n. t. A person who travels: 2. Chiefly Brit. A traveling salesman. 3. Nam. a: A metal-ring that moves freely back and forth on a rope, rod, or spar, b. The rope, rod, or spar, on which such a ring moves.



trawls.

traw (tra) m. A flat, shallow receptacle with a raised edge or

rim used for carrying, holding, or displaying articles. [ME <

tray (trā) n. A flat, shallow receptade with a raised edge or rim, used for carrying, holding, or displaying articles. [ME < OE trāg] traach erous (trāch or-as) alli. 1. Betraying a trust; traitorous; 2. a. Unreliable; undependable, b. Not to be trusted; dangerous: Treacherous water: "treach erousity adv.—treach erousenas n. treach ero; (trāch or it is in periody. 2. An act or instance of treachery (trāch or it is in periody. 2. An act or instance of treachery. [ME trecherie < OFr. trecherie < trichler, to trick] treache (trāch) n. 1. Cloying speech or sentiment. 2. Chiefly Brit. Molasses 3. A medicinal compound formetly used as an antidote for poison, [ME, antidote for poison, < OFr. triacle < Lat. theriaca < Ok. theriakê <

therion poisonous beast, dim, of ther beis therion, poisonous beast, the defending tread (tred) v. trod (trod), broaden (trodin) are legal tread (tred) v. trod (trod), broaden (trodin) are legal tread (tred) v. trod (trod), broaden (trodin) are legal treading to treading, treading treading to the treading treadin

teas ad, tread-le (tred') n. A pedal or lever operated by circular drive, as in a potter's wheel or tend in mirry, sted, sing, see. To work a treadle of OE, step of a stair < treadn, to tread, wheel or tread in the step of a stair < treadn, to tread.

tread mill (tred'mil'). n. 1. a. A mechanism oper or more persons walking on the moving steps of treading fan endless sloping belt. b. A similar ated by an animal. 2. A monotonous stake of the area of (tre'zan) n. 1. Violation of allegalates is country of sovereign, esp: the berrayal of one to by waging war against it or by consciously an acting to aid its enemies. 2. A betrayal of the dence. [ME < AN treson < Eat, traditio, shift TRADITION.]

treason a ble (urza-na-bal) adj. Pertaining to 8

acting to aid its enemies 2. A betrayal of timble dence. [ME 'AN treson \ Lat. traditio surrent [TRADITION.]

treason-bile (urtzo-no-bol) adj. Per raining to the fit reason. Treason outs (urtzo-no-bol) adj. Per raining to the fit reason outs (urtzo-no-bol) adj. Per raining to the fit reason outs (urtzo-no-bol) adj. Treasonable; fit wealth in the form of vallubbles, as money to wealth in the form of vallubbles, as money to person or thing considered exp. precious or valuable used, uring ounsidered exp. precious or valuable used, uring ounsidered exp. precious or valuable used, uring ounsidered exp. precious of valuable used. To value highly [ME tresure \ OFF; fitters of the death of the fitters of the person having billion or revenues, exp. a financial officer or recorder for ment, corporation, or society. [ME tresize of Assistance of Trevenues, exp. a financial officer or recorder for ment, corporation, or society. [ME tresize of Assistance of Trevenues, exp. a financial officer or recorder for ment, corporation, or society. [ME tresize of Assistance of Trevenues, exp. a financial officer or recorder for ment, that is followed in the form of bullion, plant; or money, that is followed in the form of bullion, plant; or money, that is followed in the form of bullion, plant; or money, that is followed in the form of bullion, plant; or money, that is followed in the ownership of which is unknown. 2 stating great value. [AN recor now.] [Internation of the control of the precion of the control of the co

ā pat/ā pay/ār care/ā father/b bib/ch eburch/d'deed/ē pet/ē be/[fife/g gāg/fi bāt/bw which Fi pit/fi j jodge/k kiek/l lid, needle/m mum/n no/sudden/ng thing/6 pot/6 toe/6 paw, for/oi noise/ou/oit/60 for/



treadmill Exercise treads



treasury note ote issued in 1862